

REMARKS

Overview

Claims 1-13 and 21-25 are pending in this application. Claims 12, 21, and 25 have been amended. The present response is an earnest effort to place all claims in proper form for immediate allowance. Reconsideration and passage to issuance is therefore respectfully requested.

Claim Rejections Under 35 U.S.C. § 103

Claims 1-13 and 21-24 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Publication No. 2002/0010590 to Lee in view of EP 1017 252 A2 to Bybee. These rejections are respectfully traversed.

Neither Lee nor Bybee alone or in combination teach the earpiece housing containing the at least one microphone as claimed. Neither Lee nor Bybee alone or in combination teach a device which contains microphones within an earpiece which is worn on a head of a user. Note that in the hearing aid system of Bybee, the microphones are in the module worn by the user and not in the earpiece. Thus, Bybee teaches away from the claimed invention by placing microphones in a module remote from the earpiece.

With respect to independent claim 1, claim 1 recites "providing an earpiece having a housing and a plurality of microphones within the earpiece housing, the earpiece adapted for being worn by a user." Neither Lee nor Bybee alone or in combination teach this step. Claim 1 further recites "selecting at least one of the plurality of microphones within the housing of the earpiece to detect a selected voice communication by a person other than the user." Neither Lee nor Bybee alone or in combination teach this step. Therefore, the rejection to claim 1 should be

withdrawn for at least these reasons. As claims 2-11 depend from claim 1, these rejections should also be withdrawn.

With respect to independent claim 12, claim 12 recites "providing an earpiece having a housing and having at least one microphone within the housing and a speaker within the housing, the earpiece adapted for being worn on a user's head." Neither Lee nor Bybee alone or in combination teach this step. Therefore, this rejection should be withdrawn.

With respect to independent claim 13, claim 13 recites "providing an earpiece having a housing and having a plurality of microphones within the housing, the earpiece adapted for being worn by a user." Neither Lee nor Bybee alone or in combination teach this step. Therefore, this rejection should be withdrawn.

With respect to independent claim 21, claim 21 recites "providing a nonocclusive earpiece housing and having a plurality of inputs for receiving voice communication and a speaker, the nonocclusive earpiece housing adapted for being worn by a user on the user's head." Neither Lee nor Bybee alone or in combination teach this step. Therefore, this rejection should be withdrawn. As claims 22-24 depend from claim 21, these rejections should also be withdrawn.

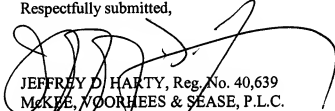
With respect to independent claim 25, claim 25 recites "providing an earpiece having a housing and a plurality of microphones within the earpiece housing, the earpiece adapted for being worn by a user on a head of the user." Neither Lee nor Bybee alone or in combination teach this step. Therefore, this rejection should be withdrawn.

Conclusion

This is a request to extend the period for filing a response for one month from June 4, 2009 to July 4, 2009. Applicant is a small entity; therefore, please charge Deposit Account number 26-0084 in the amount of \$65.00 to cover the cost of the one month extension. No other fees or extensions of time are believed to be due in connection with this amendment; however, consider this a request for any extension inadvertently omitted, and charge any additional fees to Deposit Account No. 26-0084.

Reconsideration and allowance is respectfully requested.

Respectfully submitted,

A large, stylized handwritten signature in black ink, appearing to read 'JEFFREY D. HART', is written over the typed name and address.

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